

**DRAFT CONTRACT**  
**SUPPLY CONTRACT FOR EUROPEAN**  
**UNION EXTERNAL ACTIONS**  
**N° COI/MASE/CT/2023/075**  
**FINANCED FROM THE EDF**

The Indian Ocean Commission, Blue Tower, 3rd Floor, Rue de l'Institut, Ebène, Republic of Mauritius ('The contracting authority'),

of the one part,

and

<Full official name of contractor>  
[<Legal status/title>]<sup>1</sup>  
[<Official registration number>]<sup>2</sup>  
<Full official address>  
[<VAT number>]<sup>3</sup>, ('the contractor')

of the other part,

have agreed as follows:

**PROJECT :**

**Programme to Promote Regional Maritime Security (MASE)**  
**FED/2013/024-98 (Engagement N° FED/2021/428158- DP6)**

**CONTRACT TITLE :**

**Renewal of licences, updates and support services for the**  
**Network Security Systems, OS and Utilities Software**  
**Applications of the Regional Coordination of Operations Centre**  
**(RCOC), Seychelles and the Regional Maritime Information**  
**Fusion Centre (RMIFC), Madagascar**

Identification number: COI/MASE/AO/2023/075

**Article 1 Subject**

1.1 The subject of the contract shall be : Renewal of licences, updates and support services for the Network Security Systems, OS and Utilities Software Applications of the Regional Coordination of Operations Centre (RCOC), Seychelles and the Regional Maritime Information

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<sup>1</sup> Where the contracting party is an individual.

<sup>2</sup> Where applicable. For individuals, mention their ID card or passport or equivalent document – number.

<sup>3</sup> Except where the contracting party is not VAT registered.

Fusion Centre (RMIFC), Madagascar through the supply, delivery, configuration, testing, commissioning and after-sales services of the following supplies:

**For RCOC/Seychelles**

1. Licences renewal for Fortinet 101E Firewalls
2. Licences renewal for Symantec End Point Protection
3. Licences renewal for Symantec Email Gateway for Exchange Server
4. Licences renewal for Office 365 Enterprise E3
5. Licence renewal for SolarWinds Network Performance Monitor SL100
6. Licences renewal for Veritas Backup Exec V-Ray On-Premise Standard Edition 1 CPU
7. Configuration and System Updates Services for RCOC
8. Annual Support Services for RCOC

**For RMIFC/Madagascar**

9. Licences renewal for Fortinet 101E Firewalls
10. Licences renewal for Symantec End Point Security Cloud
11. Licences renewal for Office 365 Enterprise E3
12. Licence renewal for SolarWinds Network Performance Monitor SL100
13. Licences renewal for Veritas Backup Exec V-Ray On-Premise Standard Edition 1 CPU
14. Licences renewal for Red Hat Enterprise 7.5 Premium Edition
15. Licences renewal for Red Hat Enterprise 7.5 Standard Edition
16. Licences renewal for vCenter Server 6 Standard Edition
17. Licences renewal for vSphere Server 6 Standard Edition
18. Configuration and System Updates Services for RMIFC
19. Annual Support Services for RMIFC

- 1.2 The place of acceptance of the supplies shall be :
- The Regional Coordination Operations Centre (RCOC) located in Ex-Coast Guard Base – Bois de Rose – Victoria – Mahé - Seychelles,
  - The RMIFC located in Lot IIK 44, Villa “Sainte-Clotilde” Ankadivato, 101 Antananarivo, Madagascar

The time limits for delivery shall be 20 days and the Incoterm applicable shall be DAP<sup>4</sup>. The implementation period of tasks shall run from the date on which implementation of the tasks is to commence to date for provisional acceptance.

- 1.2 The contractor shall comply strictly with the terms of the special conditions and the technical annex.

**Article 2 Origin**

The rules of origin of the goods are defined in Article 10 of the special conditions.

When required, a certificate of origin for the goods must be provided by the contractor at the latest when it requests provisional acceptance of the goods. Failure to comply with this condition may result in the termination of the contract and/or suspension of payment.

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<sup>4</sup> <DDP (Delivered Duty Paid)> - Incoterms 2020 International Chamber of Commerce - <http://www.iccwbo.org/incoterms/>

### **Article 3 Price**

- 3.1 The price of the supplies shall be that shown on the financial offer (specimen in Annex IV). The total maximum contract price shall be EUR <insert price>
- 3.2 Payments shall be made in accordance with the general and/or special conditions (Articles 26 to 28).

### **Article 4 Order of precedence of contract documents**

The contract is made up of the following documents, in order of precedence:

- the contract agreement;
- the special conditions
- the general conditions (Annex I);
- the technical specifications (Annex II [including clarifications before the deadline for submission of tenders];
- the technical offer (Annex III [including clarifications from the tenderer provided during tender evaluation]);
- the budget breakdown (Annex IV);
- specified forms and other relevant documents (Annex V) ;

The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they shall prevail in the order in which they appear above.

### **Article 5 Other specific conditions applying to the contract**

For the purpose of Article 44 of the general conditions, for the part of the data transferred by the contracting authority to the European Commission:

(a) the controller for the processing of personal data carried out within the Commission is the head of legal affairs unit of DG International Partnerships.

(b) the data protection notice is available at [https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesA\(Ch.2\):General](https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesA(Ch.2):General)

Done in English in two originals, one original being for the contracting authority and one original being for the contractor.

#### **For the contractor**

Name:

Title:

Signature:

Date:

#### **For the contracting authority**

Name:

Title: **Officer in Charge**

Signature:

Date:

# ***SPECIAL CONDITIONS***

## **CONTENTS**

These conditions amplify and supplement, if necessary, the general conditions governing the contract. Unless the special conditions provide otherwise, those general conditions remain fully applicable. The numbering of the articles of the special conditions is not consecutive but follows the numbering of the articles of the general conditions. In exceptional cases, and with the authorisation of the appropriate Commission departments, other clauses may be added to cover specific situations.

### **Article 2 Language of the contract**

- 2.1 The language used shall be English.

### **Article 4 Communications**

- 4.1 Contact persons

Contracting authority :  
**Officer in Charge**  
**General Secretariat of the IOC**  
**Blue Tower, 3rd floor, Rue de l'Institut**  
**Ebène, Mauritius**  
**Tél : (230) 402 6100**

Contractor:

- 4.2 An electronic system will be used by the contracting authority and the contractor for all stages of implementation including, inter alia, management of the contract (amendments and administrative orders), reporting (including reporting on results) and payments. The contractor will be required to register in and use the appropriate electronic exchange system to allow for the e-management of the contract.  
The electronic management of the contract through the aforementioned system may commence on the date on which implementation of the contract starts, as described in Article 18 below, or at a later date. In the latter case, the contracting authority will inform the contractor in writing that he will be required to use the electronic system for all communications within a maximum period of 3 months.

### **Article 6 Subcontracting**

- 6.3 When selecting subcontractors the contractor must give preference to natural persons or companies from ACP States capable of implementing the tasks required on similar terms.

### **Article 10 Origin**

- 10.1 All goods purchased can originate in any country.

### **Article 11 Performance guarantee**

- 11.1 The amount of the performance guarantee shall be 10% of the total contract price, including any amounts stipulated in addenda to the contract.

## **Article 12 Liabilities and insurance**

- 12.1 (a) 'By way of derogation from Article 12.1(a), paragraph 2, of the general conditions, compensation for damage to the supplies resulting from the contractor's liability in respect of the contracting authority is capped at an amount equal to the contract value.
- 12.1(b) 'By way of derogation from Article 12.1(b), paragraph 2, of the general conditions, compensation for damage resulting from the contractor's liability in respect of the contracting authority is capped at an amount equal to the contract value.
- 12.2(a), paragraph 1 By derogation from Article 12.2(a), paragraph 1, of the general conditions, at the start of implementation of tasks, the contractor shall ensure that itself, its personnel, its subcontractors and any person for which the contractor is answerable, are adequately insured with insurance companies recognized on the international insurance market, unless the contracting authority has given its express written consent on a specific insurance company.
- 12.2(a), paragraph 2 By derogation from Article 12.2(a), paragraph 2, of the general conditions it is at start of implementation of tasks that the contractor shall provide the contracting authority with all cover notes and/or insurance certificates showing that the contractor's obligations relating to insurance are fully respected.
- 12.2(b), paragraph 2 The contractor shall provide transport insurance to the extent that it assumes transportation risks including customs clearance for export, but not for import at the port or at the border of the agreed place of destination.

## **Article 13 Programme of implementation of tasks**

- 13.2 A program for the implementation of tasks must be submitted by the Contractor at the date of signature of the contract for approval by the Contracting Authority.

## **Article 16 Tax and customs arrangements**

- 16.1 The delivery conditions are DAP.

## **Article 18 Commencement order**

- 18.1 The implementation of the tasks shall begin at the date of signature of the contract.

## **Article 19 Period of implementation of the tasks**

- 19.1 The period of implementation of the tasks shall be 20 days.

## **Article 26 General principles for payments**

- 26.1 Payments shall be made in EUROS.  
Pre-financing guarantee is not required.  
Payments shall be authorized and made by the MASE project finance department

- 26.3 By derogation, the pre-financing payments shall be made within 90 days from the date on which an admissible invoice is registered by the contracting authority. The final payment to the contractor of the amounts due shall be made within 90 days following provisional acceptance of the goods, after receipt by the contracting authority of an admissible invoice
- 26.5 In order to obtain payments, the contractor must forward to the authority referred to in paragraph 26.1 above:
- a) For the 40% pre-financing,  
By derogation from article 26.5 of the general conditions, no pre-financing guarantee is required
  - b) For the 60 % balance, the invoice(s) together with the request for provisional acceptance of the supplies.

### **Article 28 Delayed payments**

- 28.2 By derogation from Article 28.2 of the general conditions, once the deadline laid down in Article 26.3 has expired, the contractor shall, upon demand, be entitled to late-payment interest at the rate and for the period mentioned in the general conditions. The demand must be submitted within two months of receiving late payment

### **Article 29 Delivery**

- 29.3 The packaging shall become the property of the recipient subject to environmental considerations

### **Article 31 Provisional acceptance**

The certificate of provisional acceptance must be issued using the template in Annex C11.

By derogation from Article 31.2, second paragraph, the contracting authority's time limit for issuing the certificate of provisional acceptance to the contractor shall not be considered included in the time limit for payments indicated in Article 26.3.

### **Article 32 Warranty obligations**

- 32.6 All supplies must be accompanied by the corresponding supplier, commercial and/or manufacturer's warranties. A 3-year warranty period is standard and needed for hardware under this contract. During the warranty period labour, transport and spare parts shall be provided free of any charge.
- 32.7 The warranty must remain valid for one year after provisional acceptance.

### **Article 33 After-sales service**

- 33.1 After-sale service is required for this contract for a period of 1 year from the date of provisional acceptance of the supplies.

### **Article 40 Settlement of disputes**

- 40.4 Any dispute arising out of or relating to this contract which cannot be settled otherwise shall:

- (a) in the case of a national contract, be settled in accordance with the national legislation of the state of the contracting authority; and
- (b) in the case of a transnational contract, be settled either:
  - (i) if the parties to the contract so agree, in accordance with the national legislation of the state of the contracting authority or its established international practices; or
  - (ii) by arbitration in accordance with the procedural rules on conciliation and arbitration of contracts financed by the European Development Fund, adopted by Decision 3/90 of the ACP-EEC Council of Ministers of 29 March 1990 (Official Journal No L 382, 31.12.1990, Annex a12 to the practical guide)

#### **Article 44 Data protection**

1. Processing of personal data related to the implementation of the contract by the contracting authority takes place in accordance with the national legislation of the state of the contracting authority and with the provisions of the respective financing agreement.

2. To the extent that the contract covers an action financed by the European Union, the Contracting Authority may share communications related to the implementation of the contract, with the European Commission. These exchanges shall be made to the Commission, solely for the purpose of allowing the latter to exercise its rights and obligations under the applicable legislative framework and under the financing agreement with the Partner country – contracting authority. The exchanges may involve transfers of personal data (such as names, contact details, signatures and CVs) of natural persons involved in the implementation of the contract (such as contractors, personnel, experts, trainees, subcontractors, insurers, guarantors, auditors and legal counsel). In cases where the contractor is processing personal data in the context of the implementation of the contract, he/she shall accordingly inform the data subjects of the possible transmission of their data to the Commission. When personal data is transmitted to the Commission, the latter processes them in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC<sup>5</sup> and as detailed in the specific privacy statement published at ePRAG. \* \*

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<sup>5</sup> OJ L 205 of 21.11.2018, p. 39